ican court, recognizing these difficulties, has applied a rule of thumb by which the employee may recover from the insurer as great a percentage of his judgment as is given to the other creditors out of the remaining assets of the employer. *Moses* v. *Traveller's Ins. Co.*, 63 N. J. Eq. 260, 49 Atl. 720. See 18 HARV. L. REV. 154; 59 CENT. L. JOUR. 5. Since this involves no greater inconsistency, and reaches practically the same result, it seems preferable.

INTERSTATE COMMERCE — DISCRIMINATION AGAINST SHIP BROKERS — EXCLUSIVE STORAGE FACILITIES ON A CARRIER'S WHARF. — A railroad, which, by owning a wharf connecting with ocean freight carriers was able to issue through bills of lading, granted the exclusive storage facilities on the wharf for "parcel" freight, to a ship broker, but gave equal facilities to all for "full-cargo" shipments. The plaintiff, another ship broker, sues to recover damages for this discrimination. *Held*, that he may not recover. *Gulf, etc. R. Co.* v. *Buddendorff*, 70 So. 704 (Miss.).

Despite the general statutory and common-law prohibitions against discrimination, public carriers have been allowed discretionary power in the assignments of certain of their facilities. *Audenried* v. *Philadelphia & Reading R. Co.*, 68 Pa. St. 370. Thus the grant of exclusive carriage privileges at a station has been upheld by the courts. *Donovan* v. *Pennsylvania Co.*, 199 U. S. 279, 296; *Ex parte Painter*, 2 C. B. (N. S.) 702. And there is considerable authority sustaining a railroad in its assignment of exclusive privileges to an express company. *Express Cases*, 117 U. S. 1, 29; *Atlantic Express Co.* v. *Wilmington, etc. R. Co.*, 111 N. C. 463, 16 S. E. 393. These cases, however, rest in part on the ground that a railroad is a common carrier of freight and not of parcels sent under special supervision. See *Sargent* v. *Boston & Lowell R. Co.*, 115 Mass. 416, 422. The discrimination made in the principal case as to storage facilities for "parcel shipment" only, would seem to be within this reasoning. But the general current of authority is contrary to the argument of the *Express Cases*. *Pickford* v. *Grand Junction R. Co.*, 10 M. & W. 399; *McDuffee* v. *Portland & Rochester R. Co.*, 52 N. H. 430. It would seem as if the true basis of the *Express Cases* must be the public welfare balanced against individual discrimination. See *Sandford* v. *Catawissa, etc. R. Co.*, 24 Pa. St. 378, 382. The extremes between which variation in the right of discrimination is possible seem to have one limit in the cases holding that competing carriers have no right to each other's wharves. *Weems* v. *People's Steamboat Co.*, 214 U. S. 345. The other limit is determined by the cases denying a carrier's right to discriminate between patrons, even though one's business is very large. *Southern Pacific Terminal Co.* v. *Interstate Commerce Commission*, 219 U. S. 498.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACTS — CONSCIOUS VIOLATION OF A STATUTE AS "WILFUL MISCONDUCT." — An employee was killed by an accident in the course of and arising out of his business while driving an automobile at an illegal rate of speed. The statute refuses compensation if the "wilful misconduct" of the employee was a proximate cause of the accident (1911–1913 CALIFORNIA LAWS, CONSOLIDATED SUPP., p. 1420). Compensation was awarded his widow. *Held*, that the award be set aside. *Fidelity and Deposit Co.* v. *Industrial Accident Commission*, 154 Pac. 834 (Cal.)

In several of the United States recovery under the workmen's compensation acts is refused if the accident is attributable to the "wilful misconduct" of the workman. See 1 BRADBURY'S WORKMAN'S COMPENSATION, 2 ed., 518. If the misconduct contemplated by these statutes is solely a wrong to the employer and his business, it is clear that the mere violation of a statute is not necessarily misconduct, as the employer might have acquiesced in the violation. See